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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA - SAN JOSE DIVISION

DOMINIC CONCETTI, by his Guardian Ad Litem,
 SHARON FRASER

Plaintiff,

vs.

IMPAC FUNDING CORPORATION, a
 California Corporation, dba IMPAC;
 UNIVERSAL MORTGAGE AND SALES, INC.,
 a California Corporation, RAYMOND FLORES,
 an individual; and ERIK S. GONZALES, an
 individual

Defendants

Case Number: C 07 05410 JW

ANSWER OF RAYMOND FLORES
 TO COMPLAINT

Defendant, RAYMOND FLORES, responds to the Complaint herein as follows.

1. Defendant admits that plaintiff is a resident of Santa Clara County California.

Regarding the allegation regarding plaintiff's Guardian ad Litem, defendant is without sufficient knowledge or information to form a belief as to the truth of this allegation, and on that basis denies same.

2. Defendant admits each and every allegation contained in paragraph two of the complaint.

3. Defendant admits each and every allegation contained in paragraph three of the complaint.

1 4. Defendant admits each and every allegation contained in paragraph four of the
2 complaint.

3 5. Defendant admits each and every allegation contained in paragraph five of the
4 complaint.

5 6. Defendant admits each and every allegation contained in paragraph six of the
6 complaint.

7 7. Defendant denies each and every allegation contained in paragraph seven of the
8 complaint.

9 8. Defendant denies each and every allegation contained in paragraph eight of the
10 complaint.

11 9. Defendant denies each and every allegation contained in paragraph nine of the
12 complaint.

13 10. Defendant denies each and every allegation contained in paragraph ten of the
14 complaint.

15 11. Defendant denies each and every allegation contained in paragraph eleven of the
16 complaint.

17 12. Defendant admits each and every allegation contained in paragraph twelve of the
18 complaint.

19 13. Defendant admits each and every allegation contained in paragraph thirteen of the
20 complaint.

21 14. Defendant denies each and every allegation contained in paragraph fourteen of the
22 complaint.

23 15. Defendant denies each and every allegation contained in paragraph fifteen of the
24 complaint.

25 16. Defendant denies each and every allegation contained in paragraph sixteen of the
26 complaint.

27 17. Defendant denies each and every allegation contained in paragraph seventeen of the
28 complaint.

1 18. Defendant denies each and every allegation contained in paragraph eighteen of the
2 complaint.

3 19. Defendant denies each and every allegation contained in paragraph nineteen of the
4 complaint.

5 20. Defendant denies each and every allegation contained in paragraph twenty of the
6 complaint.

7 21. Defendant admits he contacted plaintiff for purposes of refinancing his home.
8 Defendant denies each and every other allegation contained in paragraph twenty-one of the
9 complaint.

10 22. Defendant denies each and every allegation contained in paragraph 22 of the
11 complaint.

12 23. Defendant admits he spoke with plaintiff and his daughter regarding refinancing
13 plaintiff's home. Defendant denies each and every other allegation contained in paragraph twenty-
14 three of the complaint.

15 24. Defendant denied each and every allegation contained in paragraph twenty-four of the
16 complaint.

17 25. Defendant denies each and every allegation contained in paragraph twenty-five of the
18 complaint.

19 26. Defendant denies each and every allegation contained in paragraph twenty-six of the
20 complaint.

21 27. Defendant denies each and every allegation contained in paragraph twenty-seven of
22 the complaint.

23 28. Defendant denies each and every allegation contained in paragraph twenty-eight of
24 the complaint.

25 29. Defendant denies each and every allegation contained in paragraph twenty-nine of the
26 complaint.

27 30. Defendant denies each and every allegation contained in paragraph thirty of the
28 complaint.

1 31. Defendant denies each and every allegation contained in paragraph thirty-one of the
2 complaint.

3 32. Defendant denies each and every allegation contained in paragraph thirty-two of the
4 complaint.

5 33. Defendant denies each and every allegation contained in paragraph thirty-three of the
6 complaint.

7 34. Defendant denies each and every allegation contained in paragraph thirty-four of the
8 complaint.

9 35. Defendant denies each and every allegation contained in paragraph thirty-five of the
10 complaint.

11 36. Defendant denies each and every allegation contained in paragraph thirty-six of the
12 complaint.

13 37. Defendant denies each and every allegation contained in paragraph thirty-seven of the
14 complaint.

15 38. Defendant admits the loan was originally denied. Defendant denies each and every
16 other allegation contained in paragraph thirty-eight of the complaint.

17 39. Defendant denies each and every allegation contained in paragraph thirty-nine of the
18 complaint.

19 40. Defendant denies each and every allegation contained in paragraph forty of the
20 complaint.

21 41. Defendant denies each and every allegation contained in paragraph forty-one of the
22 complaint.

23 42. Defendant denies each and every allegation contained in paragraph forty-two of the
24 complaint.

25 43. Defendant denies each and every allegation contained in paragraph forty-three of the
26 complaint.

27 44. Defendant denies each and every allegation contained in paragraph forty-four of the
28 complaint.

1 45. Defendant denies each and every allegation contained in paragraph forty-five of the
2 complaint

3 46. Defendant admits plaintiff paid finance charges and interest payments to Defendants.
4 Defendant denies such payments were based upon illegal and improper loans.

5 47. Defendant denies each and every allegation contained in paragraph forty-seven of the
6 complaint.

7 48. Defendant denies each and every allegation contained in paragraph forty-eight of the
8 complaint.

9 49. Defendant hereby realleges and incorporates by reference all of the allegations of
10 paragraph one through forty-eight as though fully set forth herein.

11 50. Defendant admits the allegations contained in paragraph fifty of the complaint.

12 51. Defendant admits the allegations contained in paragraph fifty-one of the complaint.

13 52. Defendant admits the allegations contained in paragraph fifty-two of the complaint.

14 53. Defendant denies each and every allegation contained in paragraph fifty-three of the
15 complaint.

16 54. Defendant denies each and every allegation contained in paragraph fifty-four of the
17 complaint.

18 55. Defendant denies each and every allegation contained in paragraph fifty-five of the
19 complaint.

20 56. Defendant hereby realleges and incorporates by reference all of the allegations of
21 paragraph one through fifty-five as though fully set forth herein.

22 57. Answering paragraph fifty-seven of the Complaint, defendant is without sufficient
23 knowledge or information to form a belief as to the truth of the allegations contained in said
24 paragraph, and on that basis denies each and every allegation contained therein.

25 58. Defendant admits each and every allegation contained in paragraph fifty-eight of the
26 complaint.

27 59. Defendant denies each and every allegation contained in paragraph fifty-nine of the
28 complaint.

1 60. Defendant denies each and every allegation contained in paragraph sixty of the
2 complaint.

3 61. Defendant denies each and every allegation contained in paragraph sixty-one of the
4 complaint.

5 62. Defendant denies each and every allegation contained in paragraph sixty-two of the
6 complaint.

7 63. Defendant denies each and every allegation contained in paragraph sixty-three of the
8 complaint.

9 64. Defendant hereby realleges and incorporates by reference all of the allegations of
10 paragraph one through sixty-three as though fully set forth herein.

11 65. Defendant denies each and every allegation contained in paragraph sixty-five of the
12 complaint.

13 66. Defendant denies each and every allegation contained in paragraph sixty-six of the
14 complaint.

15 67. Defendant denies each and every allegation contained in paragraph sixty-seven of the
16 complaint.

17 68. Defendant denies each and every allegation contained in paragraph sixty-eight of the
18 complaint.

19 69. Defendant denies each and every allegation contained in paragraph sixty-nine of the
20 complaint.

21 70. Defendant denies each and every allegation contained in paragraph seventy of the
22 complaint.

23 71. Defendant denies each and every allegation contained in paragraph seventy-one of the
24 complaint.

25 72. Defendant denies each and every allegation contained in paragraph seventy-two of the
26 complaint.

27 73. Defendant denies each and every allegation contained in paragraph seventy-three of
28 the complaint.

1 74. Defendant denies each and every allegation contained in paragraph seventy-four of
2 the complaint.

3 75. Defendant hereby realleges and incorporates by reference all of the allegations of
4 paragraph one through seventy-four as though fully set forth herein.

5 76. Defendant denies that defendants breached duties to plaintiff and also denied they
6 made any misrepresentations to plaintiff. Defendant admits he was subject to the duties referenced in
7 paragraph seventy-six.

8 77. Defendant denies each and every allegation contained in paragraph seventy-seven of
9 the complaint.

10 78. Defendant denies each and every allegation contained in paragraph seventy-eight of
11 the complaint.

12 79. Defendant denies each and every allegation contained in paragraph seventy-nine of
13 the complaint.

14 80. Defendant hereby realleges and incorporates by reference all of the allegations of
15 paragraph one through seventy-nine as though fully set forth herein.

16 81. Defendant denies each and every allegation contained in paragraph eighty-one of the
17 complaint.

18 82. Defendant denies each and every allegation contained in paragraph eighty-two of the
19 complaint.

20 83. Defendant denies each and every allegation contained in paragraph eighty-three of the
21 complaint.

22 84. Defendant denies each and every allegation contained in paragraph eighty-four of the
23 complaint..

24 85. Defendant hereby realleges and incorporates by reference all of the allegations of
25 paragraph one through eighty-four as though fully set forth herein.

26 86. Defendant admits he owed a duty of care to plaintiff, including the duty to comply
27 with all applicable statutory obligations. Defendant denies each and every other allegation contained
28 in paragraph eighty-six of the complaint.

1 87. Defendant denies each and every allegation contained in paragraph eighty-seven of
2 the complaint.

3 88. Defendant denies each and every allegation contained in paragraph eighty-eight of the
4 complaint.

5 89. Defendant hereby realleges and incorporates by reference all of the allegations of
6 paragraph one through eighty-five as though fully set forth herein.

7 90. Defendant denies each and every allegation contained in paragraph ninety of the
8 complaint.

9 91. Defendant denies each and every allegation contained in paragraph ninety-one of the
10 complaint.

11 92. Defendant hereby realleges and incorporates by reference all of the allegations of
12 paragraph one through ninety-one as though fully set forth herein.

13 93. Defendant admits plaintiff resides in the state. Defendant denies each and every other
14 allegation contained in paragraph ninety-three of the complaint.

15 94. Defendant denies each and every allegation contained in paragraph ninety-four of the
16 complaint.

17 95. Defendant denies each and every allegation contained in paragraph ninety-five of the
18 complaint.

19 96. Defendant denies each and every allegation contained in paragraph ninety-six of the
20 complaint.

21 97. Defendant denies each and every allegation contained in paragraph ninety-seven of
22 the complaint.

23 98. Defendant denies each and every allegation contained in paragraph ninety-eight of the
24 complaint.

25 99. Defendant hereby realleges and incorporates by reference all of the allegations of
26 paragraph one through ninety-eight as though fully set forth herein.

27 100. Defendant denies each and every allegation contained in paragraph one hundred of
28 the complaint.

1 101. Defendant denies each and every allegation contained in paragraph one hundred and
2 one of the complaint.

3 102. Defendant denies each and every allegation contained in paragraph one hundred and
4 two of the complaint.

5 103. Defendant denies each and every allegation contained in paragraph one hundred and
6 three of the complaint.

7 104. Defendant denies each and every allegation contained in paragraph one hundred and
8 four of the complaint.

9 **AFFIRMATIVE DEFENSES:**

10 As affirmative defenses, defendant alleges:

11 **FIRST AFFIRMATIVE DEFENSE**

12 **FAILURE TO STATE A CAUSE OF ACTION**

13 As a separate, distinct and affirmative defense, this appearing Defendant alleges that neither
14 the complaint nor any cause of action in the complaint states facts sufficient to substantiate a cause of
15 action against this appearing Defendant.

16 **SECOND AFFIRMATIVE DEFENSE**

17 **FAILURE TO MITIGATE DAMAGES**

18 As a separate, distinct and affirmative defense, this appearing Defendant alleges that,
19 plaintiff's alleged injuries, if any there were, were aggravated by the plaintiff's failure to use
20 reasonable diligence to mitigate them.

21 **THIRD AFFIRMATIVE DEFENSE**

22 **STATUTE OF LIMITATIONS**

23 As a separate, distinct and affirmative defense, this appearing Defendant alleges that the
24 complaint and all causes of action contained therein are barred by the Statute of Limitations, and
25 more specifically §§337, 337.1, 337.15, 338, 339, 340, 340.6 and 343 of the California Code of Civil
26 Procedure.

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FOURTH AFFIRMATIVE DEFENSE

ESTOPPEL

As a separate, distinct and affirmative defense, this appearing Defendant alleges that the plaintiff is estopped by action of law or by conduct from maintaining these action.

FIFTH AFFIRMATIVE DEFENSE

LACHES

As a separate, distinct and affirmative defense, this appearing Defendant alleges that the action filed in this complaint is not maintainable under the doctrine of laches.

SIXTH AFFIRMATIVE DEFENSE

UNCLEAN HANDS

As a separate, distinct and affirmative defense, this appearing Defendant alleges that the plaintiff in this case is guilty of "unclean hands" in the matters set forth in the complaint, which conduct extinguishes the right to equitable relief in these action.

SEVENTH AFFIRMATIVE DEFENSE

PERFORMANCE

As a separate, distinct and affirmative defense, this appearing Defendant alleges that the plaintiff is foreclosed from seeking damages from this defendant because these defendant performed all obligations, if any, that they owed to plaintiff, and defendant's conduct was consistent with the terms of the contract between the parties.

WHEREFORE, defendant prays as follows:

1. That plaintiff take nothing by reason of its complaint, that judgment be rendered in favor of defendant;
2. That defendant be awarded his cost of suit incurred in defense of this action;
3. For reasonable attorney's fees.
4. For such other relief as the Court deems proper.

Dated: December 14, 2007

CHARLES M. STANDARD
Attorney for Defendant, RAYMOND FLORES

1 CASE NAME: CONCETTI v. IMPAC

2 CASE NUMBER: C 07 05410 JW

3
4 CERTIFICATE OF SERVICE

5
6 I, CHARLES STANDARD, declare that:

7 I am an active member of the State Bar of California, and am not a party to this action. My
8 business address is 152 N. Third Street, Suite 700, San Jose, California, 95112. On the 14th day of
9 December, 2007, I deposited in the United States mail at San Jose, California, a copy of the attached:

10 ANSWER TO COMPLAINT

11 in a sealed envelope, with postage fully prepaid, addressed to:

12 Jessica L. Fry
13 Kerstin Arusha
14 LAW FOUNDATION OF SILICON VALLEY
111 W. Saint John Street, Suite 315
San Jose, CA 95113

15 I declare under the penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct, and that this declaration was executed on the aforesaid date at San Jose,
17 California.

18
19
20 _____
CHARLES M. STANDARD